

**STATE OF CONNECTICUT
DEPARTMENT OF DEVELOPMENTAL SERVICES**

Procedure No.: I.G.PR.004
Subject: RFP Process for Selecting Qualified
Providers for Participant Supports
Section: Contracted Services

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Approved:/s/Terrence W. Macy/KdP

A. Purpose:

This procedure is designed to ensure a fair and objective process for selecting qualified providers for the award of funding to develop supports for participants served by the Department of Developmental Services (DDS).

B. Applicability

This procedure applies to all Purchase of Service (“POS”) contracts associated with new development and with the transfer of existing provider programs. Contracts awarded for specific participants which are based on personal preference and/or direct payment to the participant through a Fiscal Intermediary are not governed by this procedure. In addition, this procedure is not intended to apply to emergency situations and may be waived at the discretion of the Commissioner of the Department of Developmental Services.

C. Definitions

1. **Amendment** - any modification, deletion, or addition to a Request For Proposal (RFP), Personal Service Agreement, POS contract, evaluation plan, procurement plan (etc.).
2. **OAG** – Office of the Attorney General.
3. **Contractor** - see Personal Service contractor; POS contractor.
4. **DAS** – Department of Administrative Services.
5. **DDS Commissioner** - a State government official who is in charge of the overall direction of the Department of Developmental Services.
6. **Ethics and Confidentiality Agreement** - a formal statement, signed by participants in the RFP process, promising to conform to ethical standards of conduct and to keep confidential all information related to the process.
7. **Evaluation Criteria** - the list of weighted factors used to evaluate proposals submitted in response to an RFP.
8. **Ex Parte Communication** - the transmission of information that is not part of the public record and not generally available or shared with anyone associated with the RFP process.
9. **Fiscal Intermediary(FI)** - an entity that acts as an agent between a Participant and the Department for the purpose of assisting the Participant and /or family member to manage and distribute funds in accordance with the Participant’s budget.
10. **FOIA** – Freedom of Information Act.
11. **Letter of Intent (LOI)**- a letter written by a person, firm, corporation, private provider organization, or municipality to a State agency stating that a proposal will be submitted in response to an RFP.
12. **Official Agency Contact (OAC)** – a state agency employee responsible for handling all communications with outside parties concerning the RFP.

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13. **Office of Policy and Management (OPM)** - the Office of Policy and Management functions as the Governor's staff agency and plays a central role in state government, providing the information and analysis used to formulate public policy for the State and assisting State agencies and municipalities in implementing policy decisions on the Governor's behalf.
14. **Outline of Work** - an overall summary of a project, including the purpose, scope, activities (tasks), outcomes (deliverables), and work schedule (timeline).
15. **Participant** - a person who has been authorized by the DDS to receive services.
16. **POS Agency** - a State agency that purchases health or human services from private provider organizations or municipalities for the benefit of the agency's participants.
17. **POS Contractor** - a private provider organization or municipality that is hired by a State agency for a fee to provide services for the benefit of the agency's participants (as compared to providing services for the State agency itself).
18. **Proposer** - an individual, business entity, nonprofit organization, or municipality that has submitted a proposal in response to an RFP issued by a State agency.
19. **Prospective Proposer** - an individual, business entity, nonprofit organization, or municipality that may submit a proposal in response to an RFP issued by a State agency.
20. **Qualified Providers** - a private organization that is qualified to provide services to a Participant or group of Participants in a residential or day program who have applied for and been determined eligible for the programs and services of the DDS, or who have been determined eligible by operation of law, and who is maintained as such in the DDS's individual data base.
21. **Regional Resource Administrator** - the supervisory person of DDS Resource Managers in DDS Regional Resource Administration division.
22. **Request For Proposals (RFP)** - the solicitation communication used in a competitive negotiation process.
23. **Resource Administration** - the division of DDS that has administrative oversight responsibilities for Contractors. Responsibilities include managing contract service authorizations and related budgets, as well as ensuring quality services and contract compliance.
24. **Resource Manager** - A staff member in the DDS Resource Administration unit who provides contract administration for assigned Contractors.
25. **RFP Team** - the collective group of individuals responsible for developing the RFP, writing the evaluation plan, and evaluating the proposals submitted in the response to an RFP.
26. **RFP Screening Committee** - the individuals, appointed by an agency head or designee, who evaluate the proposals submitted in the response to an RFP.
27. **Scope of Services** – see Outline of Work.
28. **Service Provider** - see POS contractor.
29. **Sole Source** - a contractor who is selected on a non-competitive basis or who is the single provider of a particular service.
30. **State** - State of Connecticut.
31. **State Agency** - a department, board, council, commission, institution, or other agency of the executive branch of State government.
32. **Team** – a group of people working together to conduct the RFP process.

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D Implementation

1. OPM Approval

Prior to the issuance of an RFP, a Purchase of Service contract request must be approved by the Office of Policy and Management A *Request for POS* must be submitted on line through the POS Request Website for all competitive POS contracts in accordance with the OPM guidelines.

2. Documentation of the Procurement Process

The DDS will establish an official project file once the decision is made to issue an RFP. The project file must contain all the essential documents related to the contractor selection process. The contents of the file must be detailed enough to enable someone with no knowledge of the process (such as a State auditor) to reconstruct an accurate account of what occurred. At the end of the contractor selection process, all original documents must be retained and placed in the project file.

At a minimum, the project file must include the following documents:

- a) outline of work
- b) approvals from OPM (if required)
- c) list of all participants in the RFP process
- d) signed Ethics, Confidentiality and Conflict of Interest forms
- e) RFP document, including any amendments
- f) evaluation plan, including any amendments
- g) legal notice and advertising placements
- h) any mailing list used to distribute the legal notice
- i) written questions (from prospective proposers, proposers) and answers (from DDS)
- j) list of attendees at the RFP conference (if held)
- k) audio recording, transcript, notes, or minutes of RFP conference (if held)
- l) copies of all RFP related correspondence, including email
- m) all proposals received before and after the deadline
- n) list of proposals received after the deadline (if any)
- o) a report on all proposers that did not meet the minimum qualifications
- p) a report on all proposals that did not meet the minimum requirements
- q) all rating sheets used for evaluating proposals
- r) any forms or notes used to check references
- s) final ratings and ranking of proposals
- t) Screening Committee's recommendations to the DDS Commissioner
- u) documentation of the DDS Commissioner's selection or rejection of a contractor

3. RFP Preparation

To ensure the equitable treatment of potential Proposers, each must receive the same, accurate and authorized information throughout the RFP process. Employees must refrain from discussing the RFP with any outside parties. Any communications should be directed to the Official Agency Contact.

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a) Agency Contact

An agency employee must be selected to be the Official Agency Contact. This individual should be a “disinterested party” (meaning, having no interest or involvement) in the RFP process, but is knowledgeable about it. This individual will be responsible for handling all communications with outside parties concerning the RFP. This individual will also receive all proposals and keep them, unopened, in a secure location until the submission deadline

b) Organizing the Team

The DDS Commissioner (or designee) must select a person or group of persons to conduct the RFP process. The RFP team may consist of representatives from Self Advocates, Resource Administration, Finance, Administration, Information Technology, Waiver Unit, Government and Legal affairs, and/or Birth to Three depending on the nature of the request. All RFP’s that require the contractor to provide direct supports to participants with intellectual disabilities must include a self advocate and/or family member as well as a case management representative. The DDS Commissioner (or designee) must also appoint an individual to be the Team’s chairperson. The Team will have three essential tasks.

- Writing the RFP
- Writing the evaluations plan for reviewing the RFP
- Reviewing proposals

At the discretion of the Team chairperson and with approval from the DDS Commissioner (or designee), additional members may be added to the RFP Team to review proposals after the RFP and Evaluation Plan have been written but no later than the posting of the RFP to the DAS website.

c) Ethics and Confidentiality

Team members and any other individuals who participate in the RFP process must comply with the State’s current ethics laws pertaining to State contracting.

All members of the RFP Team must be advised about the activities prohibited by the State’s Code of Ethics for Public Officials (C.G.S. § 1-84). All members must also be advised that they must not participate in the RFP process if they have any interest that substantially conflicts with the proper discharge of their duties in the public interest (C.G.S. § 1-85). The State’s ethics requirements are further defined by Public Act 04-245, “*An Act Strengthening Ethics Laws Concerning Financial Disclosure, Gifts and State Contractors,*” and Governor M. Jodi Rell’s Executive Order No. 1, dated July 1, 2004.

Any public official or State employee having responsibility for the review, award, or monitoring of State contracts must file a *Statement of Financial Interests* form with the Office of State Ethics (OSE), under the terms provided by C.G.S. § 1- 83.

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To reinforce the importance and seriousness of these matters, all Team members must be required to sign an *Ethics and Confidentiality Agreement* at the outset of the RFP process. Any other agency employees who are privy to confidential information pertaining to the RFP must also sign an agreement. In signing the agreement, the Team members and agency employees attest that they will abide by the standards of conduct set forth in the State's Code of Ethics and further attest that they do not have a conflict of interest with the proper discharge of their duties.

The agreements must be reviewed and endorsed once the identities of the potential or actual Proposers become known.

d) Prohibited Activities

The Team members must conduct themselves in an acceptable manner and must refrain from engaging in certain prohibited activities during the RFP process. These activities give the appearance of impropriety and are contrary to the State's standard business practices. The following activities are prohibited:

- Offering financial donations, material goods, gratuities, gifts, or favors to the proposer or the proposer's employees;
- Offering fund-raising activities for the proposer's benefit;
- Offering unsolicited in-kind services;
- Offering activities, services, or sponsorships outside of the RFP subject area;
- Discussing other Proposers or proposals, or making comparisons to them;
- Referring or alluding to political affiliations, organizations, or connections; or
- Providing endorsements or references from individuals who have no expertise or experience in the RFP's subject area (e.g., celebrities).

e) Illegal Activities

All State agencies and all Proposers must abide by all relevant State laws related to State contracting. Violations of the law constitute grounds for disqualification of a proposal or other sanctions, or both. Illegal activities include, but are not limited to, the following:

- Bribery – C.G.S. § 53a-147
- Commercial bribery – C.G.S. § 53a-160
- Receiving a commercial bribe – C.G.S. § 53a-161
- Bid rigging – C.G.S. § 53a-161a
- Disclosure of bid or proposal – C.G.S. § 53a-161b
- Receiving kickbacks – C.G.S. § 53a-161c
- Paying a kickback – C.G.S. § 53a-161d
- Hindering prosecution – C.G.S. § 53a-165aa, 53a-166 & 53a-167

f) Mandatory Reporting

If a member of the RFP Team or a State agency employee uncovers or suspects any prohibited or illegal activity related to the RFP process, the activity must be

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reported to the Team Chairperson or the DDS Commissioner. If reported to the Chair, the Chair must report the activity to the DDS Commissioner. The DDS Commissioner – upon advice of the State agency’s legal counsel, the Chief State’s Attorney (Division of Criminal Justice), and the OAG must decide whether to investigate or prosecute or take other appropriate action with respect to the reported activity.

g) Freedom of Information Act (FOIA)

Several provisions of the Connecticut FOIA may be applicable to an RFP. The Connecticut FOIA generally requires the disclosure of documents in the possession of a State agency upon the written request of any citizen, unless some “exemptive provision” exists to allow non-disclosure. Before its issuance, an RFP document may be able to be exempt from the FOIA using the “preliminary drafts or notes” exemption found in C.G.S. § 2-210(b)(1). Preliminary drafts or notes relate to advisory opinions, recommendations, and deliberations comprising part of the process by which government decisions and policies are formulated. This means that the RFP should be labeled “DRAFT” and treated accordingly until the issue date. Labeling the RFP “DRAFT” and treating it as an “advisory opinion, recommendation, and deliberation” prior to the issue date may help the document qualify under the preliminary draft or notes exemption. Once issued, however, the RFP will be considered a final and public document subject to the FOIA.

4. Writing the RFP

The Department of Developmental Services will develop and administer RFP’s as per OPM’s Standards and Procedures. The RFP will contain all the components as required by State Statutes, Executive Orders, and OPM Standards.

a. Components of an RFP – Required by State Statute

- Legal notice (See Advertising)
- Outline of the work to be performed
- Cost Proposals
- Contract term
- Required minimum qualifications of the Contractor
- Required format for proposals
- Review criteria
- Submission deadline for proposals
- Contract Compliance Forms

b. Components of an RFP – Required by Executive Order

- Affidavit concerning campaign contributions
- Affidavit concerning gifts
- Notification to Bidders - This document gives notice that the contract to be awarded is subject to the contract compliance requirements mandated by State

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statutes and regulations. The signed copy of this form must be sent to CHRO with CHRO Form CC052 (see section W)

- Contract Compliance Notice Report- This notice concerns the prohibition of discrimination in employment practices. Upon award of a State contract, the notice must be posted by the Contractor in conspicuous places accessible to all employees and applicants for employment.

c. Components of an RFP – Required by OPM’s Standards

- Instructions for Proposers
- Official agency contact
- Proposer’s representatives
- Communications notice
- Schedule of events (timeline)
- Confidential information notice
- Affirmations concerning contract and conditions
- Minimum submission requirements
- Participant based outcome measures with complete and clear information about how the measures are defined (by the State agency), how the data must be collected and reported (by the contractor), and how the reported data will be assessed (by the POS agency).
- References
- Packaging and labeling requirements
- *Inquiry procedures*

d. Optional or Recommended Components

- Letter of intent
- Proposers’ conference
- Style requirements
- Multiple submissions
- Meetings with Proposers

5. RFP Outline

The Team members responsible for writing the RFP need to organize all the required components into a logical, well-presented document. The RFP must be written using the standard OPM outline on the OPM website.

6. Evaluation Plan

RFP teams are required to follow the standard DDS Evaluation Plan. If the team decides to write or revise the Evaluation Plan due to the unique criteria of the subject matter, the Team Chair must first receive approval from the DDS Commissioner (or designee). At the Team Chair’s option, the members of the team or some subset of the team may write the evaluation plan. The evaluation plan must describe the RFP Teams step-by-step process for reviewing proposals: from the time when the proposals are received by the Official Agency Contact, to the time when the names of the three top ranking Proposers are submitted to the DDS Commissioner. The plan must also include

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the rating sheets (with the criteria and weights) that must be used when reviewing the proposals. The members of the RFP Team and the DDS Commissioner (or designee) must approve the evaluation plan, including the weighted criteria, before the RFP is released.

The evaluation plan should include, but is not limited to, the following steps in the review process:

- Receiving proposals
- Reading proposals
- Individual rating of proposals
- Holding meetings with Proposers (optional)
- Committee rating of proposals
- Final ranking of proposals
- Reporting to DDS Commissioner

7. Advertising

When the anticipated cost of the POS is more than \$50,000, the RFP must be advertised in the print media. Pursuant to Executive Order No. 3, all bids, RFPs, related materials, and resulting contracts and agreements must be posted on the DAS State Contracting Portal. All legal notices and RFPs must also be published on the DDS website.

a) Legal Notice

A public announcement (legal notice) must be advertised in the print media about the RFP. The legal notice must appear in print no later than the same day the RFP is posted on the DAS State Contracting Portal and the DDS website. Print media is defined as a major newspaper having either statewide or regional (multi-state) circulation. At a minimum, the legal notice should contain the following information:

- the agency's name and address;
- a brief description of the project;
- the link to the State Contracting Portal to download the electronic format of the RFP
- the location of the RFP on the DDS website
- the person to contact to obtain a copy of the RFP; and
- the deadline for submitting proposals.

b) Website Advertising

- 1) **DAS Procurement** - Per *Executive Order # 3* issued by Governor Jodi Rell, all bids and RFP's must be posted to the DAS State Contracting Portal. The address is http://www.das.state.ct.us/Purchase/Portal/Portal_Home.asp.
- 2) **DDS Home Page** - All legal notices and RFPs must also be published on the DDS website.

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8. Inquiry Procedures

All questions from Proposers must be directed to the Official Agency Contact, who is responsible for forwarding the questions to the Team. The Official Agency Contact should compile and repackage the questions into a new document without any identifying information about the Proposers. The Team should answer these questions as clearly as possible and in such a way as to preserve the integrity of the process. The procedure the Team adopts to answer questions must be explained in the RFP.

9. Receiving RFP's

All proposals must be sent to the Official Agency Contact. The proposal must be stamped with the time and date it was received and placed – unopened – in a secure location by the Official Agency Contact. Proposals must not be opened until the deadline has passed.

If fewer than three acceptable proposals have been received in response to an RFP, and the POS has an estimated cost greater than \$50,000, an OPM form “*Request for Non-Competitive Personal Service Agreement*” must be submitted to OPM on line using their POS Request Website.

10. Reviewing Proposals

The RFP Team must review the proposals eligible for review in accordance with the approved evaluation plan.

11. Rating the RFP

The RFP Team must rate the proposals in accordance with the approved evaluation plan. All individual and committee rating sheets must be retained in the project file and must be disclosed if they are the subject of an active FOIA request.

12. Contractor Selection

The RFP Team must report the names of the three top ranking Proposers to the DDS Commissioner, who must select the Contractor from among these names. The RFP Team's report to the DDS Commissioner must detail the review process and the recommendations. The report must contain the names of the three top ranking Proposers and their final ratings. The Chair of the RFP Team submits the report to the DDS Commissioner. The DDS Commissioner may consult with key DDS staff in his review of the proposals. After considering the recommendations in the report and/or the feedback from the DDS staff, the DDS Commissioner may select the Contractor from among the three top ranking Proposers or reject any or all of the three top ranking Proposers. It is advisable that the DDS Commissioner document the reason(s) for selecting and/or rejecting a particular Proposer. If the DDS Commissioner does not wish to select one of the top three, then no Proposer must be selected and the RFP process must be voided. The DDS Commissioner may also void the RFP process for other reasons, such as a lack of adequate funding or some unforeseen change in an agency's circumstances or requirements.

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After the DDS Commissioner makes a selection from among the three top ranking Proposers, the selected Proposer is given the opportunity to negotiate a contract with the agency. Such negotiations may, but do not automatically, result in a contract.

13. Contract Negotiation

Once the DDS Commissioner selects the Proposer, contract negotiations may begin. If all terms and conditions are not agreed upon by both the State and the selected Proposer, negotiations may begin with the second and third Proposers, in that order. Negotiations should not take place with multiple proposers at the same time.

After a contractor has been selected, negotiations cease and the contracting process begins. The Proposers who were not selected must be notified about the outcome and thanked for their interest and participation. The Team is then debriefed and disbanded.

14. Provider Debrief

Any provider that submitted a proposal may request to meet with the RFP Chair to review their qualifying score. This review is not intended to operate as an appeal process.

15. Review Process

Any proposer may request a formal review of the competitive solicitation process used by DDS to award a POS contract. Such a review must be submitted by a proposer, in writing, to the DDS Commissioner. The proposer must set forth facts or evidence in sufficient detail for the Commissioner to determine whether the competitive solicitation process failed to comply with the State's statutes, regulations, or standards (established herein) concerning procurement.

A proposer may request a review at any time during the solicitation process, but not later than ten business days after an agency announces the contract award.

The request for a review shall not be deemed sufficient reason for an agency to delay, suspend, or terminate the competitive solicitation process or execution of a contract.

The DDS Commissioner must issue a decision, in writing, not later than thirty calendar days after receipt of any such review requests. A copy of the decision must be given to the proposer who filed the review request and any other interested party. The decision shall:

- 1) Summarize the agency's competitive solicitation process for the contract in question; and
- 2) Indicate the Commissioner finding(s) as to the merits of the proposer's review request.

In the event that the DDS Commissioner determines that a process violation has occurred and that the violation had a substantial effect on the solicitation, the Commissioner shall take corrective action not later than thirty calendar days after the date of such a determination. In the event such review is found to be frivolous, an

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agency head may dismiss the review. Any decision issued by an agency head shall be final and not subject to further review.

Any bidder or proposer on a State contract may appeal the solicitation or award of a contract to a subcommittee of the State Contracting Standards Board.

E. References:

Section 17a-212-5 of the Regulations of Connecticut State Agencies

[OPM: POS Standard RFP](#)

F. Attachment:

I.G.PR.004 Attachment A [DDS Standard Evaluation Plan](#)